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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,376	03/01/2002	John B. Duffie III	112025-0488	3382

24267 7590 05/18/2005

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EXAMINER

DAFTUAR, SAKET K

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/087,376

Applicant(s)

DUFFIE ET AL.

Examiner

Saket K. Daftuar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on March 03, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date July 18, 2002
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-22 are presented for examination.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on July 18th, 2002 was filed after the mailing date of the application on March 1st, 2002. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show "computer network 100" as described in the specification. Also, the drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Internet 270 in Fig.1.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the

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sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 22 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention [It is not clear whether it is an apparatus claim or a dependent method claim].

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Modi et al, U.S. Patent Number 6,587,866 B1 (hereinafter Modi).

As per claim 1, Modi discloses a cost associated with the packet, the cost representing a load associated with processing the packet [(see column 8, lines 4-5)]; determining an anticipated load for each coprocessor in the plurality of coprocessors using the cost [(see column 8, lines 4-5)]; and selecting the coprocessor from the plurality of coprocessors based on the anticipated load [(see column 2, lines 16-17)].

As per claim 2, Modi discloses calculating the cost using a rate associated with processing the packet [(see column 1, lines 38-39)].

As per claim 3, Modi discloses the rate is stored in a lookup table [(see column 9, lines 34-38)].

As per claims 4 and 5, Modi discloses dividing the packet's size by the rate [(see column 15, lines 39-41)]. Modi also discloses the step of multiplying the packet's size by a multiplicative inverse of the rate [(see column 15, lines 39-41, examiner considers multiplicative inverse of the rate as mathematical expression "rate inverse" which is same as packet size dividing by rate)].

As per claim 6, Modi discloses applying the packet's size to a lookup table containing one or more cost values to determine the cost. [(See column 11, lines 12-20)]

As per claim 7, Modi discloses adding the cost to a cumulative load associated with each coprocessor in the plurality of coprocessors [(see column 1, lines 60-65)].

As per claim 8, Modi discloses selecting the coprocessor from a group of one or more coprocessors whose anticipated load is a minimum load [(see column 12, lines 52-53)].

As per claim 9, Modi discloses the coprocessor is selected using a scheduling algorithm [(see column 14, lines 23-25)].

As per claim 10, Modi discloses that determining if a port associated with the packet is congested [(see column 10, lines 56-58)].

As per claim 11, Modi discloses that selecting the coprocessor from a group of one or more coprocessors whose anticipated load is not a minimum load [(see column 10, lines 53-61, examiner considers Bucket not having forwarding list for node as particular node forwarding list is full and it's waiting for a node to make it available)].

As per claim 12, claim 12 falls under the same limitation of claim 8. Therefore, claim 12 has been rejected under same rationale.

As per claims 13 and 14, Modi discloses of incrementing a cumulative load associated with the selected coprocessor [(see column 1, lines 60-65)]. Modi also discloses adding the cost to the cumulative load [(see column 1, lines 60-65)].

As per claims 15 and 16, Modi discloses decrementing a cumulative load associated with the selected coprocessor [(see column 12 lines 54-59)]. Additionally, Modi also discloses subtracting the cost from the cumulative load [examiner consider deletion of connection and deleting service on particular nodes as removing service weight from that node].

As per claim 17, Modi discloses a memory containing one or more software routines, including a software routine configured to determine a cost associated with the packet, the cost representing a load associated with processing the packet [(see column 2, lines 37-42)]; and a processor configured [(Server Node, see column 2, line 25)] to execute the software routines to determine an anticipated load for each coprocessor [(Nodes, see column 1, line 64)] in the plurality of coprocessors using the cost and to select the coprocessor from the plurality of coprocessors based on the anticipated load.

As per claim 18, Modi discloses a data structure [(see column 4, lines 41)]; wherein the cost is determined using information contained in the data structure [(see column 7, lines 40-44)].

As per claim 19, Modi also discloses that the information contained in the data structure includes the cost [(see column 7, lines 51-54)].

As per claim 20, Modi discloses that the information contained in the data structure includes a rate the coprocessor can process the packet [(see column 7, lines 19-20)].

As per claim 21, claim 21 is corresponding claim of claim 1. Therefore, claim 21 is rejected under same rationale.

As per claim 22, Modi discloses that the computer readable media containing computer executable instructions for execution in a processor [(see column 21, line 15)].

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See accompanying P.T.O 892.

A shortened statutory period for reply to this action is set to expire **THREE MONTHS** from the mailing date of this action. Failure to respond within the period for response will result in **ABANDONMENT** of the applicant (See 35 U.S.C 133, M.P.E.P 710.02,71002 (b)).

Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Saket K. Daftuar** whose telephone number is **571-272-8363**. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Zarni Maung** can be reached on **571-272-3939**. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Saket Daftuar
Art Unit 2151
May 12th, 2005


ZARNI MAUNG
SUPERVISORY PATENT EXAMINER